

Chapter 36

PUBLIC CHARITIES AND TRUSTS*

Art. I.	In General, §§ 36-1—36-19
Art. II.	Board of Public Trusts, §§ 36-20—36-45
Art. III.	Houston Foundation, §§ 36-46—36-60
Art. IV.	W.A.T.E.R. Fund, §§ 36-61—36-70
Art. V.	Solicitation of Funds for Charitable Purposes, §§ 36-71—36-85

ARTICLE I. IN GENERAL

Sec. 36-1. Intent and purpose of chapter.

It is not intended by this chapter to supersede or interfere with any charitable organization or institution in the city, nor to pledge the credit of the city in any manner to discharge the wants and needs of its indigent population, or those who may be in special need of helpful assistance. It is merely intended to create a department consisting of boards for the purpose of administering such funds as the city may set apart for charitable purposes, and such funds as may be voluntarily placed in their hands for charitable use by individuals by gifts, bequests or donations, or in any other manner; it being expressly provided that the city shall, as a part of its fixed budget, designate and limit the amount of moneys which it shall expend through such boards, and will not be responsible in any one year for obligations of a charitable or social service nature beyond such budget.

(Code 1968, § 37-1)

Sec. 36-2. When city may act as trustee.

The city is hereby authorized and empowered to act as trustee where any property or fund heretofore or hereafter given is devised or bequeathed to the city or to any class of persons in the city, for the purposes of charity, education or other public purposes and there is no trustee of such property or fund, the trust is about to fail for want of a trustee, or the trustees have resigned or been removed.

(Code 1968, § 37-2)

*Charter reference—City charities, Art. II, § 11.

†Cross reference—Boards, commissions, authorities, etc., generally, § 2-316 et seq.

Sec. 36-3. Authority of city to institute and prosecute suits relating to charitable, etc., trusts.

The city, acting through the mayor, is hereby authorized and empowered to institute and prosecute in any court of competent jurisdiction all suits and proceedings relating to any property or funds given, devised or bequeathed to the city, or to any class of persons in the city, for charitable, educational and other public purposes, including the right to sue to have the trust established, to have a trustee named and appointed for such property and funds, and to remove any such trustees for misconduct or mismanagement of such fund or property, or for any act justifying the removal of such trustee, and the city is further authorized and empowered, acting through the mayor, to prosecute any suits for the removal of any such trustees, and for the appointment of other trustees in their place, and to do and perform all acts and prosecute all proceedings of every character incident or relating to or in anywise connected with such trust property and funds that may be necessary for the full and complete protection of same.

(Code 1968, § 37-3)

Secs. 36-4—36-19. Reserved.

ARTICLE II. BOARD OF PUBLIC TRUSTS†

Sec. 36-20. Created; composition; qualifications of trustees.

There is hereby created a board of trustees to be known as the board of public trusts, consisting

of nine members, each of whom shall be a resident of the city, of skill and discretion in handling financial and trust matters, of good moral character, interested in welfare work, and possessing a knowledge of the civic, educational, physical and moral needs of the inhabitants of the city. Any person holding or seeking political office shall be disqualified from serving on such board.

(Code 1968, § 37-14; Ord. No. 79-1392, § 1, 8-21-79; Ord. No. 05-931, § 1, 7-27-05)

Sec. 36-21. Appointment and terms of trustees.

The members of the board of public trusts shall be appointed by the mayor, subject to the approval of the city council. The trustees shall hold their office for two years, and until their successors shall have been duly chosen and qualified. The regular membership positions shall be numbered one through nine. The terms for members in odd-numbered positions shall commence on March 23 of each odd-numbered year and end on March 22 of the next following odd-numbered year. The terms for members in even-numbered positions shall commence on March 23 of each even-numbered year and end on March 22 of the next following even-numbered year.

(Code 1968, § 37-15; Ord. No. 78-2614, § 1, 12-27-78; Ord. No. 05-931, § 1, 7-27-05)

Sec. 36-22. Oath of trustees.

The trustees of the board of public trusts shall take an oath to faithfully execute any trusts committed to their care and management, and dispose of the income and corpus in conformity with this article and the wishes expressed in the instruments creating such trust estate.

(Code 1968, § 37-16)

Sec. 36-23. Compensation of trustees.

The trustees of the board of public trusts shall serve without compensation, but may appropriate and disburse sufficient of the funds in their control to pay the expenses of administering their duties.

(Code 1968, § 37-17)

Sec. 36-24. President.

The trustees of the board of public trusts shall organize by electing one of their number president, who shall hold such office for two years and until his successor shall have been elected and qualified.

(Code 1968, § 37-18)

Sec. 36-25. Secretary.

The board of public trusts shall elect a secretary, who may or may not be a member of the board, as it may determine, and the secretary shall hold office as such at the pleasure of the board. Such secretary shall keep the minutes of the meetings of the board and perform such other services as may be required of him by the board and receive such compensation as may be fixed by the board with the approval of the city council.

(Code 1968, § 37-19)

Sec. 36-26. General powers and duties.

(a) The board of public trusts shall proceed to make provision for properly organized work to meet such needs as may now exist or hereafter arise in the city under the following general heads:

- (1) Care of dependent and helpless children.
- (2) Nursing the sick.
- (3) Free bureau for securing employment.
- (4) Humane treatment of children and animals.
- (5) Bureau for social service information.

(b) The board of public trusts shall have the power:

- (1) To investigate all charities dependent upon public appeal or general solicitation for support, and to endorse such of them as meet actual needs of the community, attain a reasonable standard of efficiency and are so conducted as to insure the public of the wise use of funds.
- (2) To encourage the formation of new private charities to meet the needs that are not already provided for, and to foster all worthy enterprises of a philanthropic nature and to give assistance thereto.
- (3) To collect and preserve statistics relating to charities, conditions of life, unemployment and delinquency, and to suggest means for improving the conditions producing the need of relief.
- (4) To maintain a constant survey of the field of charities with regard to the need and the work being done in connection therewith, and to secure intelligent cooperation among all charitable and social agencies in the city, to the end that a comprehensive and economical plan of philanthropy may be attained.
- (5) To disburse all funds set apart by the city for charitable purposes, and to make a report to the city council of the work done in connection therewith.
- (6) To receive donations, gifts or bequests to be used for charitable or philanthropic purposes, and to administer any trust declared or created for any such purpose in accordance with the terms of such trust not in conflict with the provisions of section 36-1 of this Code.
- (7) To establish and maintain a bureau for the purpose of providing employment free of charge to persons applying therefor; to furnish information concerning any vacant position, situation or employment which may come within the knowledge of the board; to keep a register containing the names and addresses of persons who make application for employment, together with the names and addresses of all

persons who are seeking help; and to keep a list of all positions and situations filled.

(Code 1968, § 37-20)

Sec. 36-27. Bylaws; authority relative to employees and agents.

The board of public trusts shall have power to pass bylaws for the regulation of its business and affairs, and to provide for the appointment or employment of such agents, servants and employees as it may find necessary or expedient in the conduct of its affairs and business, and fix their compensation and term of service, subject to the approval of the city council.

(Code 1968, § 37-21)

Sec. 36-28. Control and management of charitable, benevolent, etc., funds.

The board of public trusts shall have control, management and supervision of all moneys or other support that is contributed by the city to any charitable, benevolent or uplift cause, and the same shall be disbursed and spent exclusively by the board, and it shall be responsible to the city for the proper and judicious use of all moneys or other properties so placed in its hands for charitable, benevolent or uplift purposes.

(Code 1968, § 37-22)

Sec. 36-29. Payments and disbursements.

All payments and disbursements of city funds in reference to charity, benevolence and public welfare shall be made under the authority of the board of public trusts, by checks or warrants, signed by the director of treasury and countersigned by the president or secretary of the board, and such checks or warrants shall show the purpose for which they were issued.

(Code 1968, § 37-23)

Sec. 36-30. Records to be kept.

The trustees of the board of public trusts shall cause to be kept full and complete minutes of all the transactions occurring at its meetings, the same to be kept in a well-bound book, which shall be open to the inspection of the public at all rea-

sonable times, and they shall also cause to be kept a well-bound book, or books, in which shall be recorded all instruments, documents, ordinances, resolutions or other writings under which title to money or property is given, granted, taken and held and the same shall be a public record, and they shall also cause to be kept books of account showing all receipts and disbursements and the true condition of the various funds and trusts committed to their charge, and such books of account shall be audited by the auditors of the city whenever, and as often as, an audit is made of the other accounts of the city, and an audit may be ordered by the city council at any time it deems such an audit advisable.

(Code 1968, § 37-24)

Sec. 36-31. Legal department to be legal advisor.

The legal department of the city shall act as legal advisor to the trustees of the board of public trusts.

(Code 1968, § 37-25)

Secs. 36-32—36-45. Reserved.

ARTICLE III. HOUSTON FOUNDATION*

Sec. 36-46. Composition; permitted use of funds, etc.

The city shall accept any gifts, trusts, devises or bequests for charitable, benevolent or public welfare purposes upon the condition that they shall be administered, managed and dealt with, save as otherwise provided, as a single trust to be known as the Houston Foundation, which shall be constituted of the aggregate of such gifts, trusts, devises and bequests. From the time the donor or testator provides that income from a trust or that a trust estate shall be available for the use of the city or the Houston Foundation, such income or estate, less proper charges and expenses, shall be annually devoted to charitable or benevolent purposes, until and unless the principal shall have been distributed in accordance with the trust or

until the trust estate has been exhausted. Without limiting in any way the charitable or benevolent purposes for which such gifts, trust income or estates, devises or bequests may be used, they shall be available for assisting charitable and educational institutions, whether supported by private donations or public taxation, for promoting education, scientific research, care of the sick, aged or helpless, to improve living conditions, or to provide recreation for all classes, and for such other charitable or benevolent purposes as will best make for the mental, moral and physical improvement of the inhabitants of the city as it may be now or hereafter constituted, regardless of race, color or creed, according to the discretion of a majority in number of the trustees of the board of public trusts; provided, that no gratuity that is purely personal, and no pension, shall be granted to any individual. If contributors to the Houston Foundation, in the instruments creating their trusts, indicate their desire as to the time of distribution and the purposes for which the principal contributed by them shall be distributed, or as to the purpose for which the income from such principal shall be used, either for a definite or indefinite period of time, or that the power to distribute principal or income shall be vested in the trustees of the board of public trusts as provided in this section, the trustees shall respect and be governed by the wishes as so expressed unless under conditions as they may subsequently exist it shall seem to the trustees then in office wise and most widely beneficial to divert such income or principal to some other special or general purpose of the Houston Foundation, in which case the majority of such trustees, with the approval of the city council, shall have power to make such diversion.

(Code 1968, § 37-36)

Sec. 36-47. General powers and liability of board of public trusts in administering property.

In administering the property constituting the Houston Foundation, unless otherwise specifically provided in the instrument creating the trust, the trustees of the board of public trusts shall have power, by unanimous vote and with the approval of the mayor and city council, to sell, lease, trans-

*Cross reference—Boards, commissions, authorities, etc., generally, § 2-316 et seq.

fer or exchange all or any part of such property at such prices and upon such terms and conditions and in such manner as they may deem best; to execute agreements that they may deem necessary and proper; to invest and reinvest in such loans, securities or real estate as they may deem suitable for the investment of trust funds; to determine whether money or property coming into their possession shall be treated as principal or income, and charge or apportion any expenses or losses to principal or income according as they may deem just and equitable; to select and employ in and about the execution of the trust suitable agents and attorneys, and to pay their reasonable compensation and expenses; the trustees of the board in no event to be held liable for any neglect, omission or wrongdoing of such agents or attorneys, provided reasonable care shall have been exercised in their selection. The trustees, save for their own gross neglect or willful default, shall not be liable for any loss or damage. (Code 1968, § 37-37)

Sec. 36-48. Conveyance of property.

If it shall become necessary or desirable to convey any real estate constituting a part of the Houston Foundation, the board of public trusts shall pass a resolution authorizing such conveyance, and if a like resolution is passed by the city council approving the resolution of the board, then the mayor shall execute a deed under the corporate seal of the city conveying such property in conformity with the authority of such resolutions, and such deeds shall be held to vest title in the grantee in accordance with its tenor and effect. (Code 1968, § 37-38)

Sec. 36-49. Liens and encumbrances.

Neither the trustees of the board of public trusts nor the city shall have power to mortgage, pledge or hypothecate the property of the Houston Foundation, or create any manner of lien or encumbrance thereon, unless expressly authorized to do so by the instrument creating such estate or funds, and none of such property shall be subject to sale under execution, and neither shall the city nor

the board have the right or power to divert such property or any part thereof, to the ordinary corporate purposes of the city, but the same shall be and remain a public trust and be known as the Houston Foundation. (Code 1968, § 37-39)

Sec. 36-50. Payments and disbursements.

All payments and disbursements in reference to the Houston Foundation shall be made under the authority of the board of public trusts, by checks or warrants, signed by the director of treasury and countersigned by the president or secretary of the board, and such checks or warrants shall show the purpose for which they were issued. (Code 1968, § 37-40)

Secs. 36-51—36-60. Reserved.

ARTICLE IV. W.A.T.E.R. FUND

Sec. 36-61. Composition; permitted use of funds, etc.

The city shall accept any gifts for the W.A.T.E.R. Fund including, but not limited to, those donations made to the fund pursuant to section 47-70.1 of this Code, on the condition that they shall be administered, managed and dealt with, save as otherwise provided, as a single trust to be known as the W.A.T.E.R. Fund (water aid to elderly residents) which shall be constituted of the aggregate of such gifts and shall be deposited in the city's trust and agency account. The aggregate of such gifts to the W.A.T.E.R. Fund may be invested pursuant to chapter 104, Texas Local Government Code. At the direction of the utility official, the donations shall be devoted to the public purposes set forth in section 36-62 of this Code without regard to race, color, sex or creed and shall not be diverted to the ordinary corporate purposes of the city.

(Ord. No. 84-1919, § 1, 12-18-84; Ord. No. 86-435, § 1, 4-1-86; Ord. No. 92-23, § 1, 1-15-92)

Sec. 36-62. Special and general purposes.

The W.A.T.E.R. Fund shall be administered and managed for the purpose of assisting certain elderly residents whose incomes meet the below-specified criteria, handicapped residents, and certain other residents with payment of their city water and sanitary sewer bills (excluding tap, meter and related service installation charges) in accordance with the administrative procedures set forth in chapter 47 of this Code. Eighty (80) percent of the funds shall be available for assisting the elderly on fixed incomes, five (5) percent shall be available for assisting the handicapped, and the remaining fifteen (15) percent shall be available for assisting certain other residents meeting the criteria set forth below. (In the event one (1) or more of these classes do not exhaust their percentage allowance within a six-month period, excess funds available may be assigned to the remaining class or classes.) Recipients of the assistance shall be single-family residential customers as defined in section 47-61 of this Code who meet the qualifications set forth in subsections (1), (2) and (3) below. Once a recipient has received benefits from the W.A.T.E.R. Fund in the sum of fifty dollars (\$50.00), the recipient shall not be entitled to any further benefits therefrom until a period of six (6) months has expired. Assistance shall be given based on the date of initial application in the order the applications are actually received at the processing locations designated by the utility official.

The utility official shall determine whether an applicant qualifies for assistance based on proof of income in accordance with the following criteria:

- (1) *Elderly residents.* Elderly residents otherwise eligible under this section may qualify for assistance if:
 - a. They are at least sixty (60) years old and are living alone or with one (1) or more other persons sixty (60) years old or over; and
 - b. Their monthly household income, when adjusted by subtracting all medical bills for the month not reimbursed by insurance, is less than or equal to the

then-current "Weighted Average Poverty Threshold" applicable to their size of family unit as promulgated, from time to time, by the United States Department of Health and Human Services, Administration on Aging, or its successor agency for use under Title III of the Older Americans Act.

- (2) *Handicapped residents.* Residents who are deemed "handicapped" under the then-current regulations as promulgated, from time to time, by the United States Department of Health and Human Services pursuant to Section 504 of the Rehabilitation Act of 1973 as amended, may also qualify for assistance. Handicapped residents shall submit with their application a written statement signed by a licensed physician certifying that the applicant has a physical or mental impairment that substantially limits one (1) or more major life activities as specified in the aforesaid regulations for the handicapped.
- (3) *Other residents who may qualify.* Other residents who are otherwise eligible under this section may qualify for assistance if their monthly household income is less than or equal to one hundred (100) percent of the then-current poverty income guideline amount applicable to their size of family unit as promulgated from time to time, for all states (except Alaska and Hawaii) and the District of Columbia by the United States Department of Health and Human Services. Preference shall be given to those who have met those guidelines for at least three (3) months or less.
- (4) *Ineligibles.* Any resident who is employed by the city or who has any person residing within his household who is employed by the city shall not be eligible for assistance from the W.A.T.E.R. Fund.

(Ord. No. 84-1919, § 1, 12-18-84; Ord. No. 86-435, § 1, 4-1-86; Ord. No. 87-265, § 1, 2-24-87; Ord. No. 92-23, § 2, 1-15-92)

Sec. 36-63. General powers, duties and liabilities of utility official in administering W.A.T.E.R. Fund.

The utility official shall establish and review procedures to ensure the selection of recipients for assistance in accordance with the criteria set forth in section 36-62. Subject to the criteria set forth in section 36-62, the utility official shall, establish all necessary administrative procedures including the promulgation of application forms and the designation of places where applications shall be received. The utility official shall select the recipients from those determined to be qualified based on the order their applications are received. The public works and engineering department will be responsible for the accounting of funds and final disbursement of credits to the accounts of designated recipients in accordance with the criteria set forth in section 36-64.

(Ord. No. 84-1919, § 1, 12-18-84; Ord. No. 86-435, § 1, 4-1-86; Ord. No. 90-635, § 78, 5-23-90; Ord. No. 92-23, § 3, 1-15-92; Ord. No. 93-514, § 56, 5-5-93)

Sec. 36-64. Fund transfers and credits to recipients' accounts.

All fund transfers in reference to the W.A.T.E.R. Fund from the city's trust and agency account to the receivables accounts of the public works and engineering department and credits to recipients' water and sanitary sewer bills therefrom shall be made at the direction of the utility official. Such fund transfers and credits shall show the purpose for which they were issued.

(Ord. No. 84-1919, § 1, 12-18-84; Ord. No. 86-435, § 1, 4-1-86; Ord. No. 90-635, § 78, 5-23-90; Ord. No. 92-23, § 4, 1-15-92; Ord. No. 93-514, § 56, 5-5-93)

Secs. 36-65—36-70. Reserved.

ARTICLE V. SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES*

Sec. 36-71. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Adult means an individual who has attained the age of 18.

Charitable purpose means philanthropic, religious or other nonprofit objectives, including the benefit of poor, needy, sick, refugee or handicapped persons; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social or civic organization, or the benefit of any educational institution. The term "charitable purpose" shall not be construed to include the direct benefit of the individual making the solicitation or the benefit of any political group or political organization that is subject to financial disclosure under state or federal law.

Class A refers to a certificate of registration permitting the solicitation of funds that includes among its means and methods the solicitation of occupants of vehicles on public streets.

Class B refers to a certificate of registration permitting the solicitation of funds that does not include among its means and methods the solicitation of occupants of vehicles on the public streets.

Director means the director of the department of finance and administration of the city or any individual employed by such department that he shall designate to perform any of his functions specified in this article.

Individual means only a natural person.

Median means a dividing area, whether landscaped or paved, maintained for the purpose of separating or directing vehicular traffic.

***Editor's note**—Ord. No. 2005-1346, § 1, adopted December 7, 2005, amended Ch. 36, Art. V in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter and derived from Ord. No. 85-497, § 1, adopted April 10, 1985.

Minor means an individual who has not attained the age of 18.

Person means and includes any natural person, firm, partnership, corporation or association.

Roadway has the meaning ascribed in section 45-2 of this Code.

Solicit funds or *solicitation of funds* means any request for the donation of money, property, or anything of value, or the pledge of a future donation of money, property, or anything of value; or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications, or brochures, upon the representation, express or implied, that the proceeds of such sale will be used for a charitable purpose as such term is herein defined. Expressly excluded from the meaning of "solicit funds" or "solicitation of funds" are any offer of membership in any organization and any solicitation of funds for any purpose either by a governmental agency or political subdivision. The means of solicitation of funds covered by this definition are limited to a solicitation communicated in the physical presence of any individual or by telephone call placed and received within the corporate limits of the city.

Street has the meaning ascribed in section 45-2 of this Code.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-72. Unlawful solicitation.

It shall be unlawful within the corporate limits of the city:

- (1) For any person, directly or through an agent or employee, to solicit funds unless such person has first obtained a certificate of registration from the director, as hereinafter provided.
- (2) For any individual, as the agent or employee of another, to solicit funds unless his principal or employer has received a certificate of registration as hereinafter provided.
- (3) For any person to solicit funds between the hours of 9:00 p.m. and 8:00 a.m.
- (4) For any person, directly or through an agent or employee, to solicit funds after the expiration of any certificate of registration issued as hereinafter provided.
- (5) For the person registering or the agents or employees thereof to solicit funds for a purpose other than that set out in the registration statement upon which the certificate of registration was issued.
- (6) For any person who solicits funds to represent, in connection with such solicitation of funds, that the issuance of a certificate of registration by the city constitutes an endorsement or approval of the purposes, means, or methods of such solicitation of funds by the city or any department, officer or employee thereof.
- (7) For any person issued a certificate of registration hereunder to fail to file any financial statement required to be filed under this article.
- (8) For any person to employ, suffer or permit a minor to solicit funds.
- (9) For any person to use or expose any animal to hazardous conditions to solicit funds.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-73. False or misleading solicitation.

It shall be unlawful for any person to knowingly make a false or misleading representation in the course of a solicitation of funds. False or misleading representations include, but are not limited to, the following:

- (1) Stating that the solicitation of funds is being carried out on behalf of an organization that does not exist.
- (2) Stating that the solicitor represents an organization when such statement is false.
- (3) Exhibiting a military, medical or religious order uniform or other indication of military service or membership in a medical profession or religious order when the person soliciting funds is neither a present

nor former member of the service indicated, or a member of a medical profession or religious order, unless the person is soliciting funds on behalf of the military branch, medical profession, or religious order indicated in the statement.

- (4) Exhibiting an indication of physical disability or using makeup or a device to simulate any deformity or disability, when the person soliciting funds does not suffer the deformity or disability indicated.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-74. Solicitation on public streets.

(a) *Solicitation in roadways.* Except as provided in section 36-75, it shall be unlawful for any person to stand in a roadway to solicit funds. It shall be unlawful for a minor to stand in a roadway for any purpose, including solicitation of funds, except as permitted by the traffic laws of the state.

(b) *Requirements.* It shall be unlawful for any person to solicit funds pursuant to a class A certificate unless the person:

- (1) Properly wears a high visibility traffic vest provided by the director pursuant to rules and regulations promulgated therefor;
- (2) Conducts the solicitation of funds only within 40 feet of an intersection controlled by a traffic signal that requires all traffic to come to a full stop;
- (3) Solicits funds only while located on a shoulder, improved shoulder, curb or sidewalk adjacent to the roadway, excluding any median;
- (4) Does not enter the roadway to solicit or retrieve funds; and
- (5) Does not obstruct traffic or create a hazard to traffic or any other person.

(c) *First aid requirement.* It shall be unlawful for a person to solicit funds pursuant to a class A certificate where more than four individuals are also soliciting funds simultaneously at the same location unless a person certified by the American

Heart Association or American Red Cross in cardiopulmonary resuscitation and first aid is present at the location.

(d) *Location.* It shall be unlawful for a person to solicit funds pursuant to a class A certificate from a location not specified in the certificate.

(e) *[Authority.]* The director is authorized to promulgate such rules and regulations necessary for the implementation and administration of this section.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-75. Charitable solicitation by municipal employees and/or agents.

(a) No nonprofit corporation, group, or organization may engage, suffer or permit any employee or agent of the city to engage in a solicitation of funds on its behalf that requires the issuance of a class A certificate under this article unless such certificate has been issued to the nonprofit corporation, group, or organization in compliance with this article.

(b) No employee or agent of the city shall engage in a solicitation of funds on behalf of a nonprofit corporation, group, or organization that has not received a valid class A certificate issued pursuant to this article.

(c) An employee or agent of the city engaged in the solicitation of funds on behalf of a nonprofit corporation, group, or organization may solicit funds while standing in a roadway as authorized by Section 552.0071 of the Texas Transportation Code.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-76. Registration statement.

(a) *In general.* Any person who seeks to solicit funds for charitable purposes within the corporate limits of the city shall file with the director a registration statement, on forms provided by the director, containing the following:

- (1) The name of the person registering to solicit funds for charitable purposes.

- (2) Whether the person registering is an individual, partnership, corporation or association, and:
 - a. If an individual, his or her business or residence address and telephone number.
 - b. If a partnership, the names of all partners and the principal business address and telephone number of each partner.
 - c. If a corporation, whether it is organized under the laws of Texas or is a foreign corporation, the mailing address, business location, telephone number, and name of the individual in charge of the Houston office of the corporation, the names of all officers and directors or trustees of the corporation, and, if a foreign corporation, the place of incorporation.
 - d. If an association, the association's principal business address and telephone number, if any, and the names and principal business or residence addresses and telephone numbers of all members of the association. However, if there are more than ten members, the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multistate organization or association, the mailing address and business location of its principal headquarters shall be given, in addition to the mailing address and business location of its local office.
- (3) A brief description of the charitable purpose for which the funds are to be solicited, and an explanation of the intended use of the funds toward that purpose.
- (4) The names of all individuals authorized to incur expenses related to the solicitation or to disburse any proceeds of the solicitation.
- (5) The name, mailing address and telephone number of each individual who will have organizational responsibility with respect to the solicitation of funds. If there are more than 20 such individuals, the person registering may alternatively list the 20 individuals with the principal organizational responsibility with respect to the solicitation of funds.
- (6) The time period within which the solicitation of funds is to be made, giving the date of the beginning of solicitation and its projected conclusion.
- (7) A description of the means and methods by which the solicitation of funds is to be accomplished, including whether such means and methods will include any solicitation of occupants of vehicles on public streets.
- (8) The total amount of funds proposed to be raised.
- (9) A projected schedule of salaries, wages, fees, commissions, expenses and costs that the person registering reasonably believes will be expended and paid in connection with the solicitation of funds or in connection with their disbursement, and an estimated percentage of the total projected collections which the costs of solicitation will comprise. These figures shall cover the entire time period during which the solicitation is to be made.
- (10) The names of any cities outside of Harris County, Texas, in which the person registering has solicited funds for charitable purposes within the past five years, but in the event that the person registering has solicited funds for charitable purposes in more than five other cities, the person registering may list the five most populated cities in which it has solicited funds during the previous five years.
- (11) A statement to the effect that if a certificate of registration is granted, such certificate will not be used as or represented to be an endorsement by the city or any of its officers or employees.

- (12) As to each, if any, officer, director, trustee, partner, or any current agent or employee engaging in the solicitation of funds who within the past seven years has been convicted of (or been incarcerated for any conviction of) a felony or a misdemeanor involving moral turpitude, the name of the individual, the nature of the offense, the name of the state where the conviction occurred, and the year of the conviction.
 - (13) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.
 - (14) The signature of an individual on behalf of the person registering. If the person registering is an individual, this is the applicant. If the person registering is a partnership, this is the partner charged with disbursing the funds solicited. If the person registering is a corporation or an association, this is its officer charged with disbursing the funds solicited. The individual signing the registration statement shall sign the statement and swear before an officer authorized to administer oaths that he or she has carefully read the registration statement and that all the information contained therein is true and correct.
- (b) *Class A certificate; additional requirements.* Each registration statement for a class A certificate shall include the following additional information:
- (1) Each location at which solicitation of funds is to occur; and
 - (2) The number of persons to be involved in solicitation of funds at each location.
- (c) *Class A certificate; use of city employee or agent; additional requirements.* If the proposed solicitation is to include the use of any employee or agent of the city as provided in section 36-75 of this Code, the applicant shall also provide, in a form acceptable to the city attorney, proof of a current policy of commercial general liability insurance providing coverage against claims against

the applicant and the city in the amount of at least \$1,000,000.00 for any damages that may arise from the solicitation.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-77. Registration fee.

Every registration statement shall be accompanied by a registration fee of \$12 to compensate the city for the cost of administering this article provided that no fee shall be charged to a non-profit corporation, group, or organization that uses only employees or agents of the city to solicit funds pursuant to a class A certificate issued under this article. Such fee will be nonrefundable, irrespective of whether a certificate of registration is issued.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-78. Issuance of certificate of registration.

(a) *Class A.* A registration statement for a class A certificate shall be filed not later than the eleventh day before the date the solicitation of funds is to begin. Within five working days of the receipt of the registration statement, the director shall either issue a certificate of registration, as provided in section 36-79, or notify the person registering that the registration statement does not comply with the requirements of section 36-76, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued.

(b) *Class B.* Within ten working days of the receipt of a class B registration statement, the director shall either issue a certificate of registration, as provided in section 36-79, or notify the person registering that the registration statement does not comply with the requirements of section 36-76, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-79. Form of certificate of registration.

(a) The director shall prescribe the form of each certificate of registration, each of which shall be printed in black except that the following

shall be printed prominently thereon in red: "The issuance of this certificate of registration is not an endorsement by the City of Houston or any of its departments, officers or employees." Each certificate of registration shall specify the period of its validity as determined pursuant to section 36-81 and shall also bear a registration number, and the same number shall be assigned by the director to the file containing the registration statement filed by the registrant.

(b) In addition to the foregoing requirements, each class A certificate shall specify each location at which funds may be solicited.
(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-80. Transfer of certificate of registration prohibited.

A certificate of registration issued under the provisions of this article shall not be transferable, and the authority a certificate confers shall be conferred only on the holder named therein. The certificate of registration shall have endorsed thereon in red letters the words "NOT TRANSFERABLE."
(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-81. Expiration of certificate of registration; filing of financial statements within specified time of termination of solicitation.

(a) Each certification of registration issued by the director shall expire according to the following schedule:

- (1) A Class A certificate of registration shall expire not later than 30 days from the date of issuance, or upon the termination of the solicitation period specified, whichever is less.
- (2) A Class B certificate of registration shall expire not later than one year from the date of issuance, or upon the termination of the solicitation period specified, whichever is less.

(b) Not later than 120 days after the expiration of its certificate of registration, each person who registered shall file a closing statement with

the director. Except as provided to the contrary in this section, the closing statement shall be a financial statement that is either:

- (1) On a form provided by the director for this purpose and sworn to by the individual who would be the appropriate individual to sign a registration statement on behalf of the person who registered; or
- (2) Audited by a certified public accountant.

The closing statement shall indicate the total funds collected or pledged from the solicitation of funds, the purpose or purposes (with the amount of funds for each purpose) for which such funds have been or will be disbursed by the person registering, any incurred but unpaid expenses resulting from the solicitation of funds, all other anticipated disbursements of collected or pledged funds, the actual or projected date of each disbursement, and, if funds have been or will be kept by the person registering for over 30 days before disbursement, the name of the financial institution, if any, with which such funds have been or will be deposited. The requirement to show the total funds represented by any food that has been collected or pledged may be satisfied either by estimating the monetary value of the food to the nearest multiple of \$100.00 or by providing the weight of the food in the manner required by the director.

(c) Each person registering shall file a preliminary closing statement no later than 30 days from the expiration of its certificate of registration. The preliminary closing statement shall be filed with the director on forms provided for this purpose. It shall be a financial statement containing the same information as listed on the preceding paragraph of this section, except that it need not be sworn to or audited by a certified public accountant and that any amounts stated thereon may be estimated based upon whatever information is reasonably available to the person registering at the time the preliminary closing statement is filed.

(d) Any requirement in this section to submit a financial statement may alternatively be satisfied by the submission of an information return covering the entire time period during which the solicitation of funds was conducted and actually

filed with the United States Internal Revenue Service to fulfill federal requirements for submission of information returns for persons exempt from taxes in accordance with 26 U.S.C.A. § 501 or any successor provision.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-82. Public disclosure.

All registration statements and closing statements filed with the director, whether or not a certificate of registration has been issued, shall be public records and shall be available for inspection by members of the public during the director's regular business hours. Copies may be obtained at the fees prescribed by law for copies of city records.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-83. Exceptions.

The following are excepted from the operation of sections 36-71 through 36-81:

- (1) The solicitation of funds for charitable purposes by any organization or association from its members;
- (2) The solicitation of funds for charitable purposes by a person when such solicitation occurs on premises owned or controlled by the person soliciting funds or with the permission of the person who owns or controls the premises; and
- (3) The issuance of any announcement or advertisement which states that a solicitation as described in subsections (1) and (2) above will occur or which announces or advertises an event at which unannounced solicitation as described in subsections (1) and (2) above occurs.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-84. Penalties.

Violation of any applicable provision of this article shall be punished as provided by section 1-6 of this Code. Each day that any violation continues shall constitute a separate offense. However, an offense under any provision of this article

which also constitutes an offense pursuant to state law shall be punishable in accordance with the applicable state law.

(Ord. No. 05-1346, § 1, 12-7-05)

Sec. 36-85. Provisions cumulative.

The provisions of this article are cumulative of any other valid and applicable laws, rules or regulations governing the solicitation of funds or any activity which may be associated therewith. Compliance with this article shall not be deemed to excuse compliance with any other valid and applicable laws, rules or regulations governing the solicitation of funds or any activity which may be associated therewith.

(Ord. No. 05-1346, § 1, 12-7-05)